

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MICHAEL CHRISTY,

Plaintiff,

-v-

S. BASTIAN *et al.*,

Defendants.
-----X

19 Civ. 9666 (JPC)

ORDER

JOHN P. CRONAN, United States District Judge:

On December 17, 2021, the Court denied Defendants’ motion to dismiss the Amended Complaint for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b) and granted Defendants’ motion to dismiss for failure to state a claim pursuant to Rule 12(b)(6). Dkt. 103 at 22. The Court, however, dismissed the Amended Complaint “without prejudice to [Plaintiff] filing a second amended complaint on his Eighth Amendment deliberate indifference claim against Dr. Chukwuneke *only* and any medical malpractice claims against all Defendants, except Warden Bastian.” *Id.* In that Order, the Court advised Plaintiff that if he “chooses to file a second amended complaint, he must do so by January 28, 2022” and that if he “fails to file a second amended complaint by January 28, 2022 and he does not show good cause to excuse such failure, the Court will direct the Clerk of Court to close this case.” *Id.* at 22-23.


Plaintiff did not file a second amended complaint by the January 28, 2022 deadline. Approximately one week later, on February 3, 2022, Plaintiff filed a letter and the Second Amended Complaint. Dkts. 104-105. In the letter, Plaintiff represents that he did not receive the Court’s December 17, 2021 Order until January 2, 2022. Dkt. 104 at 1. Plaintiff also represents that he attempted to file the Second Amended Complaint with the Court’s *Pro Se* Intake Unit on January

26, 2022 at 2:24 p.m. and on January 28, 2022 at 2:12 p.m., but that he was unable to do so because he was told that “Court’s closed.” *Id.* Plaintiff represents that he learned on February 3, 2022 that the Court’s *Pro Se* Intake Unit is open from 11:00 a.m. to 2:00 p.m. Based on Plaintiff’s representations in his February 3, 2022 letter, the Court finds that there is good cause to excuse Plaintiff’s delay in filing the Second Amended Complaint. Plaintiff, however, is advised that he must comply with the Court’s orders and his failure to do so, including by failing to appear for court conferences, to comply with deadlines, and to adhere to his duty to notify the Court regarding any change of his address, may result in the dismissal of this action without further notice.

Accordingly, it is hereby ordered that Defendants shall respond to the Second Amended Complaint, Dkt. 105, by February 17, 2022. The Clerk of Court is respectfully directed to mail a copy of this Order to Plaintiff and note service on the docket.

SO ORDERED.

Dated: February 4, 2022
New York, New York



JOHN P. CRONAN
United States District Judge